* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 08th APRIL, 2026

IN THE MATTER OF:

**O.A. 43/2023**

**IN**

\+ **CS(OS) 330/2022**

VK SOOD PIL JV .....Plaintiff

Through: Mr. Karunesh Tandon, Mr. Sarthak Mittal, Mr. Prabin Mohan, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS .....Defendants

Through: Mr. Tushar Sannu, Standing Counsel of MCD with Ms Ankita Bhadouriya & Mr Umesh Kumar, Advs

**CORAM:**
**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT**

**I.A. 7780/2023**

1. This is an Application under Section 14 of the Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908 ("**CPC**") on behalf of the Defendants seeking condonation of delay in filing the Chamber Appeal.

2. For the reasons stated in the Application, the delay in filing the Chamber Appeal is condoned.

3. The Application is disposed of.

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4. The challenge in this Appeal is to the Order dated 17.03.2023 by which the learned Joint Registrar refused to accept the Written Statement of the Defendant on record on the ground that it has been filed beyond the period of 120 days.

5. Material on record indicates that on receiving summons, Defendants appeared for the first time on 31.05.2022 and time was granted to file the Written Statement on the said date. The Written Statement was filed for the first time on 25.09.2022. However, the said Written Statement was kept in defect as it was not accompanied by the Affidavit of admission/denial of documents.

6. The Written Statement along with the Affidavit of admission/denial of documents ultimately came on record on 14.12.2022, which is beyond the maximum period provided under the Delhi High Court (Original Side) Rules, 2018 (*hereinafter referred to as the* '**Delhi High Court Rules**').

7. *Vide* Order dated 17.03.2023, the learned Joint Registrar refused to accept the Written Statement filed by the Defendants, which was not accompanied by the Affidavit of admission/denial of documents on the date when it was filed and the Affidavit was filed only on 14.12.2022, which is beyond the prescribed period of 120 days under the Delhi High Court Rules.

8. Rule 2, 3 and 4 of Chapter VII of the Delhi High Court Rules which are relevant are reproduced as under:-

> *"**2. Procedure when defendant appears.—***
> *If the defendant appears personally or through an Advocate before or on the day fixed for his appearance in the writ of summons:—*
>
> *(i) where the summons is for appearance and for filing written statement, the written statement shall not be taken*

*on record, unless filed within 30 days of the date of such service or within the time provided by these Rules, the Code or the Commercial Courts Act, as applicable. An advance copy of the written statement, together with legible copies of all documents in possession and power of defendant, shall be served on plaintiff, and the written statement together with said documents shall not be accepted by the Registry, unless it contains an endorsement of service signed by such party or his Advocate.*

*(ii) the Registrar shall mark the documents produced by parties for purpose of identification, and after comparing the copies with their respective originals, if they are found correct, certify them to be so and return the original(s) to the concerned party.*

***3. Affidavit of admission/ denial of documents alongwith written statement.-***

***Alongwith the written statement, defendant shall also file an affidavit of admission/ denial of documents filed by the plaintiff, without which the written statement shall not be taken on record.*** *Alongwith the written statement, the defendant shall be entitled to file applications for interrogatories for examination of the plaintiff together with proposed interrogatories; application for discovery; and application for inspection of such documents.*

***4. Extension of time for filing written statement.—***

*If the Court is satisfied that the defendant was prevented by sufficient cause for exceptional and unavoidable reasons in filing the written statement within 30 days, it may extend the time for filing the same by a further period not exceeding 90 days, but not thereafter. For such extension of time, the party in delay shall be*

> *burdened with costs as deemed appropriate. The written statement shall not be taken on record unless such costs have been paid/ deposited. In case the defendant fails to file the affidavit of admission/ denial of documents filed by the plaintiff, the documents filed by the plaintiff shall be deemed to be admitted. In case, no written statement is filed within the extended time also, the Registrar may pass orders for closing the right to file the written statement.”* (Emphasis Supplied)

9. Rule 2 of Chapter VII of the Delhi High Court Rules mandates that the Written Statement should be filed within a period of 30 days. Rule 3 mandates that along with the Written Statement, the Defendant shall also file an Affidavit of admission/denial of documents without which the Written Statement shall not be taken on record. Rule 4 provides that if the Court is satisfied that the Defendant was prevented by sufficient cause for exceptional and unavoidable reasons in filing the Written Statement within 30 days, it may extend the time for filing the Written Statement by a further period not exceeding 90 days, but not thereafter. Rule 4 also provides that in case the Defendant fails to provide an Affidavit of admission/denial of documents of the Plaintiff, the documents filed by the Plaintiff shall be deemed to be admitted.

10. Admittedly in the present case, the Written Statement has not been filed within 30 days and was filed only on 25.09.2022, which is 3 days before the 120 days period came to an end, i.e., 28.09.2022. An Application for condonation of delay in filing the Written Statement has been filed by the Defendants. Paragraph 2 to 4 of the said Application reads as under:-

> *“2. That the Applicants/ Defendants/ MCD being a Government Public Sector Unit, authorized its counsel through due process to appear in the aforementioned*

*matter. That the Applicants through the instant Application seeks condonation of Delay in filing the Written Statement in compliance with order dated 31.05.2022. That the slight delay in filing of the Written Statement, inter alia, was occasioned as the instant matter has grave ramifications and hence office records were procured and the contents thereof deliberated with the officers of the applicant/ MCD. Further, after due deliberations, the Written Statement was carefully drafted to incorporate the relevant averments of the applicants. The Written Statement once prepared by the Counsel of the Applicants, was shared with the Applicants/ MCD for due vetting by the Competent Defendant/ MCD/ Legal Defendant/ MCD of the Applicant/ MCD and then sent to the Officer concerned for signing. That as the records in the instant case is voluminous and as the Applicant not being a private party has a due process of approving Affidavits/ Replies, thus the entire process took some time and hence occasioned the inadvertent delay in filing the Written Statement.*

*3. That the reason for delay in filing the Written Statement is a sufficient cause for not filing the Written Statement within the stipulated period of time granted by the Hon'ble Court. It is prayed that the Hon'ble court may take a sympathetic approach and may not presume that the delay is occasioned deliberately or on account of mala fide or that the Applicant is guilty of culpable negligence since no litigant takes recourse to delay in complying with the direction of the Hon'ble Court, unless the reason is compelling; as in the instant case.*

*4. That the filing the Written Statement in compliance with the directions of the Hon'ble Court vide Order dated 31.05.2022 is bonafide and for the reasons above mentioned the Applicant is filing the present Application seeking the condonation of delay of 85 days in filing its*

*Written Statement."*

11. The Defendants have also filed an Application for condonation of delay in re-filing the Written Statement. Paragraph 3 to 5 of the said Application reads as under:-

> *"3. That the Written Statement was filed by the Applicant on 25.09.2022, whereafter the objection was raised by the registry that the Affidavit of Admission &· Denial of documents of Plaintiff was not filed alongwith the Written Statement/ Reply.*
>
> *4. That as the documents relied upon by the Plaintiff were voluminous and a total of 472 documents had been relied. The pedantic perusal of the same and drafting of admission & denial of documents took considerable time. That after due deliberations, the Affidavit of Admission & Denial was carefully drafted in conformity with the averments of the applicants. The Affidavit once prepared by the Counsel of the Applicants, was shared with the Applicants/ MCD for due vetting by the Competent Defendant/ MCD/ Legal Defendant/ MCD of the Applicant/ MCD and then sent to the Officer concerned for signing. That it was during this period that the MCD elections were also due. That as the records in the instant case is voluminous and as the due process of approvals of Affidavits/ Replies are to be followed by Applicants/ MCD, thus the entire process took some time and hence occasioned the inadvertent delay in filing the Affidavit of Admission & Denial.*
>
> *5. The defects were thus finally removed on 14.12.2022 and the Written Statement of the Applicants/ Defendants was taken on record alongwith the Affidavit of Admission & Denial. It is worth to mention here that no objection of either condonation of delay in filing Written Statement or condonation of delay in re-filing was raised by the Registry before taking the Written Statement and*

*Affidavit of Admission & Denial on record."*

12. The short question which, therefore, arises for consideration is as to whether a Written Statement which has been filed within 120 days, which is the maximum period stipulated under the Delhi High Court Rules, but is not supported by an Affidavit of admission/denial of documents, which have been filed subsequently and after the period of 120 days, can be taken on record or not.

13. Learned Counsel for the Plaintiff submits that a Written Statement without an Affidavit of admission/denial of documents is not a Written Statement at all in view of Rule 3 of the Delhi High Court Rules which makes the filing of an Affidavit of admission/denial of documents mandatory along with Written Statement. Learned Counsel for the Plaintiff submits that permitting a Written Statement to come on record without of an Affidavit of admission/denial of documents or allowing the of an Affidavit of admission/denial of documents to be filed separately after 120 days period will render the provisions of Rule 3 of the Delhi High Court Rules completely *otiose*.

14. He further submits that in any event Rule 3 of the Delhi High Court Rules provides for the time limit of curing the defective pleadings. He states that assuming without admitting that the Written Statement *sans* of an Affidavit of admission/denial of documents is only a defective pleading even then, Rule 3 of the Delhi High Court Rules provides that the defects must be cured within 30 days and since the defects in the present case were not cured within the 30 days time period, the Written Statement cannot be taken on record as they were filed without of an Affidavit of

admission/denial of documents within the time prescribed under the Delhi High Court Rules.

15. Learned Counsel for the Plaintiff places reliance on the Judgment of a co-ordinate Bench of this Court in Unilin Beheer B.V. v. Balaji Action Buildwell, **2019 SCC OnLine Del 12566,** wherein the co-ordinate Bench of this Court has taken a view that under Rules 3 & 4 of Chapter VII of the Delhi High Court Rules permitting a Written Statement without of an Affidavit of admission/denial of documents would render the word "shall" as *otiose*.

16. *Per contra*, learned Counsel appearing for the Defendants contends that the learned Joint Registrar has failed to appreciate that the Written Statement was filed on 25.09.2022, i.e within the prescribed period of 120 days. He states that the Affidavit of admission/denial of documents was filed on 14.12.2022. He contends that the rejoinder/replication has been filed to the Written Statement and, therefore, the Plaintiff has estopped from raising the ground that the Written Statement cannot be taken on record.

17. Learned Counsel for the Defendant places reliance on the Judgment passed by the co-ordinate Benches of this Court in COSCO International Pvt. Ltd. v Jagat Singh Dugar, **2022 SCC Online Del 1113**; Neeraj Ahuja v AIPIL Zorro Pvt. Ltd., **2024 SCC Online Del 3479**; and Shefali Kohli v Neena Chatrath, **2024 SCC Online Del 2752**, to contend that Written Statement filed within 120 days cannot be considered as *non-est* if not accompanied by of an Affidavit of admission/denial of documents.

18. Heard the learned Counsels for the parties and perused the material on record.

19. A co-ordinate Bench of this Court in Unilin Beheer B.V (supra) has

taken a view that a Written Statement filed without an Affidavit of admission/denial of documents cannot be taken on record at all. After quoting various provisions, the learned Single Judge in the said Judgment has held as under:

> "*22. The core question for consideration is, whether the only consequence of non-filing of the affidavit of admission/denial of documents along with the written statement is of the documents filed by the plaintiff being deemed to be admitted by the defendant OR of the written statement being not taken on record and the defendant being in the position of a defendant who has not filed the written statement.*
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> *23. On first blush it appears that there is indeed inconsistency/contradiction, in Rule 3 on the one hand, providing that written statement without affidavit of admission/denial shall not be taken on record and Rule 4 on the other hand, providing that the effect of non-filing of affidavit of admission/denial shall be of the documents being deemed to be admitted.*
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> *24. I have wondered, whether the two Rules read together have the effect of providing that on non-filing of affidavit of admission/denial with written statement, though the written statement has to be read but the documents of plaintiff deemed to be admitted. However to hold so, would tantamount to rendering otiose the words "without which the written statement shall not be taken on record" in Rule 3 supra and negate the bar in Rule 3 to taking the written statement on record if unaccompanied with an affidavit of admission/denial of documents.*
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> *25. It is the settled rule of statutory interpretation that interpretation which renders otiose any part of a statute, should be avoided.*

*26. On the contrary the effect of holding that in such a situation, the written statement shall be deemed to have been not filed and the documents filed by the plaintiff deemed to be admitted, would allow full play to both Rules, without making any part thereof otiose. On further consideration, no inconsistency/contradiction is found in the two Rules. This interpretation is also in consonance with the legislative intent.*

*27. Such interpretation is also found to be in consonance with the spirit behind overhauling of the Delhi High Court (Original Side) Rules, 1967 and enactment of the 2018 Rules. With the experience of over fifty years of working of the 1967 Rules, attempt was made in the 2018 Rules to do away with the bottlenecks in the proceedings in the suits on the Original Side of this Court. One of such bottlenecks was the stage of admission/denial of documents, at which the suits remained pending, in large number of cases, for years and thereafter also not serving any purpose of expediting trial, with vague denials being made, putting the opposite party to proof of documents at the cost of consequent delays. Order 12 Rule 2A of the CPC, as existed since amendment thereof of 1976, though provided that a document, which a party is called upon to admit, if not denied specifically or by necessary implication or stated to be not admitted in the pleading of that party or in reply to notice to admit, shall be deemed to be admitted but also provided that where a party unreasonably neglected or refuses to admit a document after service of notice to admit-documents, the Court may direct him to pay costs to the other party by way of compensation. The same in working, led to, as aforesaid, a practice of generally denying everything in pleadings, implicitly also documents and taking advantage of resultant delays in proof of documents. This resulted in suits, most of*

*evidence wherein was documentary, also being not decided expeditiously owing to delays in proof of documents. To eliminate such malady, in the new Rules provisions aforesaid were incorporated, making affidavit of admission/denial of documents mandatory and providing stringent consequences of non-filing of affidavit of admission/denial of documents to prevent a party from abusing the process of Courts, to its own advantage and to the prejudice of opposite parties. The Scheme in entirety, as set out hereinabove, shows that the same consequences as for defendant, also follow for plaintiff for non-filing of affidavit of admission/denial of defendant?s documents.*

*28. To, inspite of aforesaid changes in Rules hold, that in such a situation the written statement shall be read though the documents filed by the plaintiff deemed to be admitted, has the potential of resulting in anomalous situation. The Senior Counsel for the plaintiff has canvassed that though the plaintiff did not file affidavit of admission/denial of documents along with the written statement to the Counter Claim but has in the written statement to the Counter Claim, dealt with the documents. Holding, that the written statement containing a denial of documents will be read, would come in the way of giving full effect to the deemed admission of the documents provided for in Rule 4, as happens under Order 12 Rule 2A supra of CPC and undo the effect of the new Rules.*

*29. Under Order 8 Rule 10 of the CPC, upon non-filing of written statement, the Court has discretion, depending on facts, to either pronounce judgment forthwith or direct the plaintiff to prove his claim. Deemed admission by the defendant of the documents of the plaintiff, under Rule 4 supra, will also result in the Court, where defendant has not filed affidavit of admission/denial with written statement, on the basis*

> *of admission of documents pass a decree forthwith rather than relegating the party to proof of his claim based on documents.*
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> *30. I thus hold, that in the event of the written statement being filed without affidavit of admission/denial of documents, not only shall the written statement be not taken on record but the documents filed by the plaintiff shall also be deemed to be admitted and on the basis of which admission the Court shall be entitled to proceed under Order 8 Rule 10 of the CPC.*"

20. On the other hand, in the three Judgments relied on by the learned Counsel for the Defendants, the co-ordinate Benches have taken a completely contrary view. In COSCO International Pvt. Ltd. (supra), the learned Single Judge, after observing the findings of the co-ordinate Bench in Unilin Beheer B.V (supra), has observed as under:

> "***14***. *What is noteworthy is that having expressed the opinion in para 31 of Unilin Beheer B.V. (supra) as extracted above, even in that case, the Co-ordinate Bench allowed the written statement (to the counter claim) to be taken on record subject to payment of costs; since, the written statement and the affidavit of admission/denial of documents had been filed within the maximum time period specified for the purpose under the law. Accordingly, para 31 as aforesaid must be taken to apply only when the written statement is filed beyond the 120 days period and the defect of not having filed an affidavit of admission/denial of documents is also not cured within the maximum 30 days period prescribed by law from the date that the filing objection is brought to the knowledge of the party.*
>
> ***15***. *Upon a conspectus of the timelines as set-out above*

*and in light of the provisions of the CPC as amended by the Commercial Courts, Commercial Division & Commercial Appellate Division of High Courts (Amendment) Act, 2018read in conjunction with the Delhi High Court (Original Side) Rules 2018, as also the judicial precedents referred to by the parties, this court is of the view that written statement having been filed within the statutory period; and the defect of non-filing of the affidavit of admission/denial also having been cured well within the permissible time period, nothing further stands in the way of the written statement being taken on record.*

***16**. For clarity, it is reiterated that what Order V Rule 1(1) and Order VIII Rule 1 CPC provide is the outer time-limit for filing of the written statement of defence. The filling by the defendant of an affidavit of admission/denial of the plaintiff's documents, is a separate requirement under Chapter VII Rule 3 and 4 of the Delhi High Court (Original Side) Rules, 2018; and the consequence for not filing such affidavit is that the written statement shall not be taken on record and that the plaintiff's documents shall be deemed to be admitted by the defendant. However, the filing of a written statement within the prescribed time but without an accompanying affidavit of admission/denial of documents, does not amount to non-est filing, since it cannot be said that nothing was filed at all. It would, however, amount to a defect, that is required to be cured after it is brought to the attention of the party by the Registry. Chapter VII Rule 3 only bars taking on record a written statement that is filed without an accompanying affidavit of admission/denial of documents. Filing of the written statement and it being taken on record are two separate and distinct matters.*"

21. Similarly, in <u>Neeraj Ahuja</u> (supra), the learned Single Judge, after

placing reliance on <u>COSCO International Pvt. Ltd.</u> (supra), has observed as under:

> "***6***. *Ms. Arora points-out that in the present case, no objections or defects had been pointed-out by the Registry in relation to the filing of the written statement; and the defendant came to know that the written statement was not on record only at the hearing before the learned Joint Registrar on 09.05.2019; whereupon, the defect pointed-out, which related only to non-filing of the affidavit of admission/denial of documents, was cured and the said affidavit was filed within 19 days thereafter. Accordingly, it is submitted that the 30-day aggregate period available for curing of filing defects under Chapter IV Rule 3 of the Delhi High Court (Original Side) Rules, 2018 was also adhered to.*
>
> ****
>
> ***8***. *Accordingly, the essential submission on behalf of the appellant/defendant, is that the written statement in the present case had indeed been filed within the time of 120 days prescribed under Order V Rule 1(1) and Order VIII Rule 1 CPC; and the only defect pointed-out subsequently was of not having filed the affidavit of admission/denial of documents alongwith the written statement; which defect was also cured within 19 days of it being pointed-out, well in compliance of the 30 days aggregate time period available for curing such defects under Chapter IV Rule 3 of the Delhi High Court (Original Side) Rules, 2018. It is therefore argued, that the impugned order deserves to be set-aside and the written statement ought to be taken on record.*"

22. Similarly, in <u>Shefali Kohli</u> (supra) the co-ordinate Bench of this Court after placing reliance on <u>COSCO International Pvt. Ltd.</u> (supra) has held that a Written Statement without of an Affidavit of admission/denial of

documents can be taken on record.

23. This Court is of the view that permitting Written Statement without an Affidavit of admission/denial of documents would render the word "shall" in Rule 3 of Chapter VII of the Delhi High Court Rules as *otiose*. It is well settled that meaning has to be given to every word in legislation. The legislation in Rule 3 has used the word "shall" making it mandatory. There is no reason to read the word "shall" as "may" as it goes against the spirit of Rules 2, 3 & 4 of the Delhi High Court Rules, the object of which is to ensure finally completion of pleadings. It is settled law that unless there are compelling reasons to read the word "shall" as "may" literal interpretation is the golden rule for interpreting the statute.

24. It is a settled rule of construction that to ascertain the legislative intent, all the constituent parts of a statute are to be taken together and each word, phrase or sentence is to be considered in the light of the general purpose and object of the Act itself. The Apex Court in Ramana Dayaram Shetty v. International Airport Authority of India, **(1979) 3 SCC 489** has held that the words used in statutes cannot be treated to be surplusage or superfluous or redundant and must be given some meaning and weightage. It was observed by the Apex Court as under:

> *"7.....It is a well-settled rule of interpretation applicable alike to documents as to statutes that, save for compelling necessity, the Court should not be prompt to ascribe superfluity to the language of a document "and should be rather at the outset inclined to suppose every word intended to have some effect or be of some use". To reject words as insensible should be the last resort of judicial interpretation, for it is an elementary rule based on common sense that no author of a formal document intended to be acted upon by the*

> *others should be presumed to use words without a meaning. The court must, as far as possible, avoid a construction which would render the words used by the author of the document meaningless and futile or reduce to silence any part of the document and make it altogether inapplicable....”*

This view has consistently held the field and was recently reiterated in Central Coalfields Ltd. v. SLL-SML (Joint Venture Consortium), **(2016) 8 SCC 622** and JSW Infrastructure Ltd. v. Kakinada Seaports Ltd., **(2017) 4 SCC 170**.

25. It is also well settled that where the statutes meaning is clear and explicit, words cannot be interpolated. But, if the provision is clear and explicit, it cannot be reduced to a nullity by reading into it a meaning which it does not carry. Further, a legislature does not waste words without any intention, and every word that is used by the legislature must be given its due import and significance.

26. It is a well-settled principle of law that user of verbs “may” and “shall” in a statute is not a sure index for determining whether such statute is mandatory or directory in character. The Apex Court in Muskan Enterprises v. State of Punjab**, (2024) 20 SCC 85**, has further elucidated the import and distinction between the terms “shall” and “may” as under:

> “***24****. Law is well-settled that user of the verbs “may” and “shall” in a statute is not a sure index for determining whether such statute is mandatory or directory in character. The legislative intent has to be gathered looking into other provisions of the enactment, which can throw light to guide one towards a proper determination. Although the legislature is often found to use “may”, “shall” or “must” interchangeably, ordinarily “may”, having an element*

*of discretion, is directory whereas "shall" and "must" are used in the sense of a mandatory provision.* ***Also, while the general impression is that "may" and "shall" are intended to have their natural meaning, it is the duty of the court to gather the real intention of the legislature by carefully analysing the entire statute, the section and the phrase/expression under consideration. A provision appearing to be directory in form could be mandatory in substance. The substance, rather than the form, being relevant, ultimately it is a matter of construction of the statute in question that is decisive.***

***25****. It is also a well-accepted rule that interpretation must depend on the text and the context — the text representing the texture and the context giving it colour — and, that interpretation would be best, which makes the textual interpretation match the contextual. While wearing the glasses of the statute-maker, the enactment has to be looked at as a whole and it needs to be discovered what each section, each clause, each phrase and each word means and whether it is designed to fit into the scheme of the entire enactment. While no part of a statute and no word of a statute can be construed in isolation, statutes have to be construed so that every word has a place and everything is in its place. We draw inspiration for the above understanding of the manner of interpreting a statute from the decision of this Court in RBI v. Peerless General Finance & Investment Co. Ltd. [RBI v. Peerless General Finance & Investment Co. Ltd., (1987) 1 SCC 424 : (1987) 61 Comp Cas 663 : AIR 1987 SC 1023]*"

(emphasis supplied)

27. No universal principle of law could be laid in that behalf as to whether a particular provision or enactment shall be considered mandatory

or directory. It is the duty of the court to try to get at the real intention of the legislature by carefully analysing the whole scope of the statute or section or a phrase under consideration. If the directions of the statute are mandatory, then strict compliance with the statutory terms is essential to the validity of administrative action. But if the language of the statute is directory only, then variation from its direction does not invalidate the administrative action. Conversely, if the statutory direction is discretionary only, it may not provide an adequate standard for legislative action and the delegation. The Apex Court in State of U.P. v. Babu Ram Upadhya, **1960 SCC OnLine SC 5,** considering the aforesaid position, has observed as under:

> "*29. The relevant rules of interpretation may be briefly stated thus: When a statute uses the word "shall", prima facie, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute.* ***For ascertaining the real intention of the Legislature the Court may consider, inter alia, the nature and the design of the statute, and the consequences which would follow from construing it the one way or the other, the impact of other provisions whereby the necessity of complying with the provisions in question is avoided, the circumstance, namely, that the statute provides for a contingency of the non-compliance with the provisions, the fact that the non-compliance with the provisions is or is not visited by some penalty, the serious or trivial consequences that flow therefrom, and, above all, whether the object of the legislation will be defeated or furthered.***"
>
> (emphasis supplied)

28. It scarcely needs reiteration that principles of judicial propriety and decorum mandate that where a Single Judge, while hearing a matter, is

inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a Single Judge, needed to be reconsidered, the appropriate course is to refer the matter to a Division Bench or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question.

29. Furthermore, to preserve judicial decorum, the Apex Court in Dr. Vijay Laxmi Sadho v. Jagdish (**2001) 2 SCC 247** has observed as under:

> "*33. As the learned Single Judge was not in agreement with the view expressed in Devilal case [ Election Petition No. 9 of 1980] it would have been proper, to maintain judicial discipline, to refer the matter to a larger Bench rather than to take a different view. We note it with regret and distress that the said course was not followed. It is well-settled that if a Bench of coordinate jurisdiction disagrees with another Bench of coordinate jurisdiction whether on the basis of "different arguments" or otherwise, on a question of law, it is appropriate that the matter be referred to a larger Bench for resolution of the issue rather than to leave two conflicting judgments to operate, creating confusion. It is not proper to sacrifice certainty of law. Judicial decorum, no less than legal propriety forms the basis of judicial procedure and it must be respected at all costs.*"

30. Relying on the aforesaid judgment, the Apex Court in State of Punjab v. Devans Modern Breweries Ltd., **(2004) 11 SCC 26**, has observed as under:

> "*339. Judicial discipline envisages that a coordinate Bench follow the decision of an earlier coordinate Bench. If a coordinate Bench does not agree with the principles of law enunciated by another Bench, the matter may be referred only to a larger Bench. (See*

> *Pradip Chandra Parija v. Pramod Chandra Patnaik [(2002) 1 SCC 1] , SCC at paras 6 and 7; followed in Union of India v. Hansoli Devi [(2002) 7 SCC 273] , SCC at para 2.) But no decision can be arrived at contrary to or inconsistent with the law laid down by the coordinate Bench. Kalyani Stores [AIR 1966 SC 1686 : (1966) 1 SCR 865] and K.K. Narula [AIR 1967 SC 1368 : (1967) 3 SCR 50] both have been rendered by the Constitution Benches. The said decisions, therefore, cannot be thrown out for any purpose whatsoever; more so when both of them if applied collectively lead to a contrary decision proposed by the majority.*"

31. In view of the divergent views expressed by co-ordinate Benches of this Court on the issue in question, and having regard to the settled principle of judicial discipline that conflicting interpretations by Benches of equal strength ought to be authoritatively resolved by a Larger Bench, this Court considers it appropriate to refer the present issue for consideration by a Larger Bench.

32. The question that arises for determination is whether the filing of a Written Statement within the statutory period prescribed under the Delhi High Court (Original Side) Rules, 2018, but without being accompanied by an affidavit of admission/denial of documents, renders such filing non-est in law or whether the absence of such affidavit constitutes a curable defect, permitting the Written Statement to be taken on record upon subsequent compliance of filing an affidavit of admission/denial of documents.

33. In the event the Larger Bench holds that such Written Statement can be taken on record notwithstanding the delayed filing of the affidavit of admission/denial, the matter shall stand remitted to the learned Joint

Registrar for consideration of the sufficiency of the reasons furnished by the Defendants for the delay in filing the said affidavit. Conversely, if the Larger Bench holds that a Written Statement unaccompanied by the affidavit of admission/denial within the prescribed period cannot be taken on record, the impugned order of the learned Joint Registrar shall stand affirmed.

34. In view of conflicting orders of the co-ordinate Benches of this Court on the issue raised in the present case, an authoritative pronouncement is necessary so that there is uniformity in deciding such cases in this Court. This issue is arising frequently and, therefore, it is expedient that the same is put to rest on an urgent basis. Accordingly, let the matter be placed before the Hon'ble the Chief Justice for constitution of a Larger Bench to decide the present issue

**SUBRAMONIUM PRASAD, J**

**APRIL 08, 2026**
Hsk/JR